

REMARKS/ARGUMENTS

The Examiner is thanked for the review of the application and the telephone interview of February 24, 2006.

Claims 1-17 remain in this application. Claims 1, 5, 8-14 have been amended. Claims 18-24 have been added. No new matter has been added.

In the Office Action dated December 6, 2005, the Examiner has rejected Claims 1-2, 4-8, under 35 U.S.C. 102(a) and (e) as being anticipated by Cunningham et al. (US 6,029,139).

Regarding Claim 1, the Examiner has stated that "Cunningham et al. teaches an apparatus for creating a promotional event calendar, useful in association with at least one store, the apparatus comprising: an econometric engine for modeling sales as a function of price to create a sales model (See column 2, lines 65-column 3, line 3, column 5, lines 13-23, column 6, lines 1-20, column 8, lines 1-10, column 10, lines 55-65, which discusses modeling sales using price and sales information); a financial model engine for modeling costs to create a cost model (See column 5, lines 14-41, column 8, lines 1-12, column 10, lines 55-65, column 11, lines 65-column 12, line 5 and lines 45-52, which discusses modeling costs using costs data); a promotional engine coupled to the econometric engine, and financial model engine to receive input from the econometric engine and financial model engine, wherein the promotional engine analyzes a plurality of offers, a plurality of promotional events, and conditions from the at least one store to optimally match offers with promotional events to create a promotional event calendar subject to conditions from the at least one store (See figure 2, column 2, lines 24-31, column 5, lines 13-42 and 59-65, column 11, lines 35-45 and 65-column 12, line 15 and lines 45-52, wherein an engine uses the output of the other engines to analyze and optimize promotional options to match offers and events (i.e. prices with displays, for example). This creates a schedule of events for future promotions. See column 2, lines 50-60, column 3, lines 1-5 and 15, column 10, lines 60-65, and column 12, lines 20-25, wherein conditions (i.e. sales, promotional participation, etc.) at the at least one store associated with a retailer is considered in the modeling of a promotional event)."

Regarding Claim 5, the Examiner has stated that "Cunningham et al. discloses a computer-implemented method for creating a promotional event calendar, comprising: creating a

sales model (See column 2, lines 65-column 3, line 3, column 5, lines 13-23, column 6, lines 1-20, column 8, lines 1-10, column 10, lines 55-65, which discuss a sales model created in the system that considers sales data); creating a cost model (See column 2, lines 45-52, column 5, lines 13-20 and 59-column 6, line 25, wherein a cost model is created in the system and considers cost data); determining conditions from at least one store (See column 2, lines 50-60, column 3, lines 1-5 and 15, column 10, lines 60-65, and column 12, lines 20-25; wherein conditions (i.e. sales, promotional participation, etc.) at the at least one store associated with a retailer are determined); determining the value of offers using the sales model and cost model (See column 5, lines 14-41, column 8, lines 1-12, column 10, lines 55-65, column 11, lines 65-column 12, line 5 and lines 45-52, which discuss determining the value of offers using the models); determining the value of promotional events using the sales model and cost model (See column 5, lines 25-41, column 6, lines 10-12, column 11, lines 65-column 12, line 5 and lines 45-52, which discusses the value of promotional events); and selecting combinations of the offers and promotional events based on the determined values to create a promotional event calendar subject to the conditions from the at least one store (See column 1, lines 59-63, column 2, lines 24-31, column 5, lines 25-41, column 11, lines 65-column 12, line 5 and lines 45-52, wherein the combination of offers and promotional events are selected based on determined values. See column 2, lines 50-60, column 3, lines 1-5 and 15, column 10, lines 60-65, and column 12, lines 20-25, wherein conditions at at least one store are considered in the modeling of a promotional event)."

Regarding Claim 8, the Examiner has stated that "Claim 8 recites equivalent limitations to claims 5-7 above and is therefore rejected using the same art and rationale applied above."

Amended base Claims 1, 5, 8 now recite "**conditions** from at least one manufacturer" and "**constraints** from at least one store" (emphasis added). In other words, in addition to modeling prices and costs, the present invention also take into consideration conditions imposed by the manufacturer and the constraints of the stores (see page 128, lines 20-21, page 130, lines 10-21 and page 139, line 15 of Applicant's specification). In contrast, Cunningham appears to focus on costs, sales numbers to schedule an event calendar without paying attention to conditions imposed by the manufacturers and actual store constraints. Paying attention to store constraints is very important because the best promotional plans may not be successful if the stores are unable to execute the plan due to constraints imposed by store, for example, physical limitations

which cannot be easily removed without extensive renovations. Hence, base Claims 1, 5, 8 are all allowable over the cited reference(s).

Regarding Claim 9, the Examiner has stated that “Cunningham et al. teaches wherein the conditions from the at least one store include ad space capacity (See column 8, lines 1-10, 32-37, and 48-55, and tables 5A-B and 6, wherein a feature volume is stored in the system).” Regarding Claim 10, the Examiner has stated that “Cunningham et al. wherein the conditions from the at least one store include display space capacity (See column 8, lines 1-10, 32-37, and 48-55, and tables 5A-B and 6, wherein the display volume is stored in the system).” The Examiner has also stated that “Claims 11-12 and 13-14 recite equivalent limitations to claims 9-10, respectively, and are therefore rejected using the same art and rationale applied above.”

Dependent Claims 9, 11, 13 have been amended to recite “**constraints** from the at least one store include at least one of **ad space** capacity and **display space** capacity” (emphasis added). As discussed above, Applicants’ claimed invention takes into consideration store constraints. In addition, page 132, lines 13-15 and page 138, lines 2-3 of the specification explicitly discloses capacity for Ad/Feature and (physical) display space (limitation). In contrast, Cunningham does not disclose nor suggest using store capacity for planning purposes. Instead, Cunningham appears to focus on costs and sales without taking into consideration physical limitations of the store ability to display promotional items. Accordingly, Claims 9, 11, 13 are all allowable for these additional reasons.

Further, dependent Claims 10, 12, 14 have been amended to recite “**constraints** from the at least one **store** include at least an **event type**, a number of events, a **brand promotion** frequency, and a product **promotion frequency**” (emphasis added). Support can be found on page 141, line 5, page 142, line 8, page 143, line 4, and page 143, line 12 of Applicants’ specification). Since none of the cited references appear to teach or suggest the claimed limitations, Claims 10, 12, 14 are all allowable for these additional reasons.

Regarding Claim 6, the Examiner has stated that “Cunningham et al. wherein the creating of the sales model comprises: creating a plurality of demand groups, wherein each demand group is a set of at least one product and wherein at least one of the demand groups is a set of at least

two products (See column 2, lines 25-35, column 4, line 61-column 5, lines 8, column 6, lines 22-40 and 50-62, which discusses demand groups wherein a demand group is one product or more than one product, such as segment or brand family); creating a sales model for each demand group (See column 2, lines 25-35, column 4, line 61-column 5, lines 8, column 6, lines 22-40 and 50-62, wherein sales data is obtained and modeled for a demand group); and creating a market share model for each product in each demand group (See column 2, lines 45-57, column 4, line 61-column 5, line 12, column 6, lines 22-40 and 50-65, wherein a model is created concerning the market of the demand group).” Regarding Claim 8, the Examiner has stated that “Claim 8 recites equivalent limitations to claims 5-7 above and is therefore rejected using the same art and rationale applied above.”

Both Claims 6 and 8 recite “demand groups”. New dependent Claim 18 further clarifies demand group by explicitly reciting “demand groups include a set of **substitutable products**” (emphasis added) (see page 14, lines 17-21 and page 15, lines 1-5 of specification). In other words, demand groups irrespective of the subset of products (within a category) that are promoted simultaneously. In contrast, Cunningham appears to refer to product segments as groups that are intended to be promoted together (see col. 26, lines 28-32).

New dependent Claims 19, 21, 23 recite “wherein the **conditions** from the at least one manufacturer include providing at least one of a **promotional event** and a specific **amount of promotion**” (emphasis added). In addition, new Claims 20, 22, 24 recite wherein the conditions from the at least one manufacturer include not providing a promotional event for a competitor’s product”. Support can be found on page 128, line 20 to page 129, line 7. These new dependent claims are all allowable because of these limitations and also for the same reasons discussed above for their respective base Claims 1, 5, 8.

In sum, base Claims 1, 5, 8 have been amended and are believed to be allowable. Dependent claims 9-14 have been amended and are also believed to be allowable. Dependent claims 2-4, 6, 7, 9-24 which depend therefrom are also believed to be allowable as being dependent from their respective patentable parent claims 1, 5, 8 for at least the same reasons. Hence, Examiner’s rejection of dependent Claims 2-4, 6, 7, 9-17 are rendered moot in view of the amendment to independent Claims 1, 5, 8. New claims 18-24 have been added and are also believed to be allowable. Applicants believe that all pending claims 1-24 are now allowable over

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the cited art and are also in allowable form and respectfully request a Notice of Allowance for this application from the Examiner. Applicants also enclose our Credit Card Payment Form authorizing the amount of **\$910.00** to cover the **RCE fee** and **one-month extension of time fee**. The commissioner is authorized to charge any additional fees that may be due to our Deposit Account No. 50-2766 (Order No. DEMIP006). Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at telephone number 925-570-8198.

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Respectfully submitted,



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